

## CLAIM AMENDMENT

**Please cancel claims 9, 22-23 and 25-28 without prejudice or disclaimer. Please add new claims 29-38 as set forth below.**

1. (previously presented): Inbred corn seed of the corn plant 5750, a sample of said seed having been deposited under ATCC Accession No. PTA-3128.
2. (original): The inbred corn seed of claim 1, further defined as an essentially homogeneous population of inbred corn seed.
3. (original): The inbred corn seed of claim 1, further defined as essentially free from hybrid seed.
4. (previously presented): An inbred corn plant produced by growing the seed of the inbred corn plant 5750, a sample of said seed having been deposited under ATCC Accession No. PTA-3128.
5. (original): Pollen of the plant of claim 4.
6. (original): An ovule of the plant of claim 4.
7. (previously presented): An essentially homogeneous population of corn plants produced by growing the seed of the inbred corn plant 5750, a sample of said seed having been deposited under ATCC Accession No. PTA-3128
8. (previously presented): A corn plant capable of expressing all the physiological and morphological characteristics of the inbred corn plant 5750, a sample of the seed of said inbred corn plant 5750 having been deposited under ATCC Accession No. PTA-3128.
9. (canceled)

10. (previously presented): A tissue culture of regenerable cells of inbred corn plant 5750, wherein the tissue regenerates plants capable of expressing all the physiological and morphological characteristics of the inbred corn plant 5750, a sample of the seed of said inbred corn plant 5750 having been deposited under ATCC Accession No. PTA-3128.
11. (original): The tissue culture of claim 10, wherein the regenerable cells comprise cells derived from embryos, immature embryos, meristematic cells, immature tassels, microspores, pollen, leaves, anthers, roots, root tips, silk, flowers, kernels, ears, cobs, husks, or stalks.
12. (original): The tissue culture of claim 11, wherein the regenerable cells comprise protoplasts or callus.
13. (previously presented): A corn plant regenerated from the tissue culture of claim 10, wherein said corn plant is capable of expressing all of the physiological and morphological characteristics of the inbred corn plant designated 5750, a sample of the seed of said inbred corn plant designated 5750 having been deposited under ATCC Accession No. PTA-3128.
14. (original): An inbred corn plant cell of the corn plant of claim 8, said cell comprising:
- (a) an RFLP genetic marker profile in accordance with the profile shown in Table 7; or
  - (b) a genetic isozyme typing profile in accordance with the profile shown in Table 8.
15. (original): A corn seed comprising the inbred corn plant cell of claim 14.
16. (original): A tissue culture comprising the inbred corn plant cell of claim 14.
17. (original): The inbred corn plant of claim 8, comprising:
- (a) an RFLP genetic marker profile in accordance with the profile shown in Table 7; or
  - (b) a genetic isozyme typing profile in accordance with the profile shown in Table 8.
18. (previously presented): A process of producing corn seed, comprising crossing a first parent corn plant with a second parent corn plant, wherein said first or second corn plant is the

inbred corn plant 5750, a sample of the seed of said inbred corn plant 5750 having been deposited under ATCC Accession No. PTA-3128, wherein seed is allowed to form.

19. (previously presented): The process of claim 18, further defined as a process of producing hybrid corn seed, comprising crossing a first inbred corn plant with a second, distinct inbred corn plant, wherein said first or second inbred corn plant is the inbred corn plant 5750, a sample of the seed of said inbred corn plant 5750 having been deposited under ATCC Accession No. PTA-3128.

20. (original): The process of claim 19, wherein crossing comprises the steps of:

- (a) planting in pollinating proximity seeds of said first and second inbred corn plants;
- (b) cultivating the seeds of said first and second inbred corn plants into plants that bear flowers;
- (c) emasculating the male flowers of said first or second inbred corn plant to produce an emasculated corn plant;
- (d) allowing cross-pollination to occur between said first and second inbred corn plants; and
- (e) harvesting seeds produced on said emasculated corn plant.

21. (original): The process of claim 20, further comprising growing said harvested seed to produce a hybrid corn plant.

22-28. (Canceled)

**Please add new claims 29-28 as follows:**

29. (new) A method of producing a male sterile corn plant comprising transforming the corn plant of claim 4 with a nucleic acid molecule that confers male sterility.

30. (new) A male-sterile corn plant produced by the method of claim 29.

31. (new) A method of producing an herbicide resistant corn plant comprising transforming the corn plant of claim 4 with a transgene that confers herbicide resistance.

32. (new) An herbicide resistant corn plant produced by the method of claim 31.
33. (new) A method of producing an insect resistant corn plant comprising transforming the corn plant of claim 4 with a transgene that confers insect resistance.
34. (new) An insect resistant corn plant produced by the method of claim 33.
35. (new) A method of producing a disease resistant corn plant comprising transforming the corn plant of claim 4 with a transgene that confers resistance to bacterial, fungal, nematode or viral disease.
36. (new) A disease resistant corn plant produced by the method of claim 35.
37. (new) A method of producing a corn plant with modified carbohydrate composition comprising transforming the corn plant of claim 4 with a transgene encoding waxy starch.
38. (new) A corn plant produced by the method of claim 37.

## **RESPONSE TO OFFICE ACTION**

### **A. Status of the Claims**

Claims 9, 22-23 and 25-28 have been canceled herein and new claims 29-38 have been added. The new claims correspond to the claims proposed by the Examiner in the Office Action dated May 14, 2003. As set forth in that Office Action, support for the new claims can be found, for example, at pages 29-33 of the specification. Claims 1-21 and 29-38 are now pending and presented for reconsideration.

The Office is authorized to withdraw any fee that may become due in connection with the claim amendments from *Fulbright & Jaworski, L.L.P.* Account No. 50-1212/DEKA:260US.

### **B. Rejection of Claims Under 35 U.S.C. §112, First Paragraph – Enablement and Written Description**

The Action rejects claims 9, 22-23 and 25-28 under 35 U.S.C. §112, first paragraph as lacking enablement and not being supported by an adequate written description in the specification. Applicants respectfully traverse the rejection but note that, in the interest of compact prosecution of the instant case, the claims have been canceled herein.

New claims 29-38 fully comply with 35 U.S.C. §112, first paragraph. In this regard, Applicants note that each of the added claims correspond to those suggested by the Examiner in the Office Action mailed in the case on May 14, 2003. The Examiner stated on page 9 of that paper that cancellation of the instantly rejected claims and addition of these claims would obviate the rejections under 35 U.S.C. §112. As this has been done herein, it is believed that the instant case is in condition for allowance and such action is therefore respectfully requested.

**C. Rejection of Claims Under 35 U.S.C. §112, Second Paragraph**

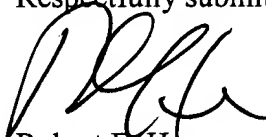
The Action rejects claims 9 and 25-28 under 35 U.S.C. §112, second paragraph as being indefinite for failing to particularly point out the subject matter which Applicants regard as the invention. Applicants respectfully traverse the rejection but note that, in the interest of compact prosecution of the instant case, the claims have been canceled herein. The rejection is therefore now moot.

**D. Conclusion**

This is submitted to be a complete response to the referenced Office Action. In conclusion, Applicant submits that, in light of the foregoing remarks, the present case is in condition for allowance and such favorable action is respectfully requested.

The Examiner is invited to contact the undersigned at (512) 536-3085 with any questions, comments or suggestions relating to the referenced patent application.

Respectfully submitted,



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Date: January 28, 2004